

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

MICHAEL A. CALIX,

Plaintiff,

vs.

ALBERTSONS, LLC,

Defendant.

2:14-cv-01392-RCJ-VCF

ORDER

On or about June 29, 2013, Plaintiff Michael Calix slipped and fell on the wet floor near an indoor flower display on Defendant Albertsons, LLC's property in Las Vegas, Nevada. Plaintiff sued Defendant for negligence in state court. Defendant removed in diversity. Plaintiff moved for partial summary judgment on the issues of duty and liability. The Court refused to address the motion because Defendant had not properly stated its own citizenship in the Notice of Removal (ECF No. 1), and the Court was therefore not satisfied of its jurisdiction. The Notice of Removal states:

At the commencement of this action and at all times herein, Defendant, Albertsons, LLC[,] was, and now is, a limited liability company duly organized and existing under the laws of the State of Delaware with its principal place of business in Boise, Idaho, and therefore, is a citizen of the State of Delaware and Idaho.

1 (See Notice Rem. ¶ 7, ECF No. 1). The Court noted that the legal conclusion of Defendant's
2 citizenship did not follow because as a limited liability company, Defendant has the citizenship
3 of each of its members for the purposes of diversity jurisdiction, and its places of registration,
4 headquarters, and principal place of business are irrelevant. See *Johnson v. Colombia Props.*
5 *Anchorage, LP*, 437 F.3d 894, 899 (9th Cir. 2006).

6 The Court ordered Defendant to make a further statement of removal alleging the
7 citizenships of each of its members (and if any of those members are themselves limited liability
8 companies, partnerships, or other types of unincorporated associations, their citizenships as well,
9 etc.). Defendant has filed a further Statement of Removal ("SOR") (ECF No. 30). In the SOR,
10 Defendant again claims in relevant part that "Defendant Albertsons, LLC is, and was at the time
11 this action was commenced, a limited liability company organized under the laws of the State of
12 Delaware. Therefore, for diversity purposes, Albertsons, LLC is a citizen of the State of
13 Delaware." As explained clearly in the previous order, that is not so. Defendant has made no
14 attempt to allege the citizenships of its members. Although Defendant reports that a settlement is
15 imminent, the Court has no jurisdiction over the subject matter, meaning it has no jurisdiction to
16 sign the stipulation and order that Defendant claims is forthcoming; rather, the Court must
17 remand when it notices a jurisdictional defect at any time before final judgment. See 28 U.S.C.
18 § 1447(c).

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CONCLUSION

IT IS HEREBY ORDERED that the case is REMANDED to the Eighth Judicial District Court in Clark County, Nevada, and the Clerk shall close the case.

IT IS SO ORDERED.

Dated this 3rd day of December, 2015.



ROBERT C. JONES
United States District Judge